

Internal Revenue Service

District  
Director

Department of the Treasury

P.O. Box 2508  
Cincinnati, OH 45201

Person to Contact:

Telephone Number:

Refer Reply to:

EP/EO

Date: JUN 18 1987

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under the provisions of section 501(c)(3) of the Internal Revenue Code of 1986 and its applicable Income Tax Regulations. Based on the available information, we have determined that you do not qualify for the reasons set forth on Enclosure I.

Consideration was given to whether you qualify for exemption under other subsections of section 501(c) of the Code and we have concluded that you do not.

As your organization has not established exemption from Federal income tax, it will be necessary for you to file an annual income tax return on Form 1120. Contributions to you are not deductible under section 170 of the Code.

If you are in agreement with our proposed denial, please sign and return one copy of the enclosed Form 6018, Consent to Proposed Adverse Action.

You have the right to protest this proposed determination if you believe that it is incorrect. To protest, you should submit a written appeal giving the facts, law and other information to support your position as explained in the enclosed Publication 892, "Exempt Organizations Appeal Procedures for Unagreed Issues". The appeal must be submitted within 30 days from the date of this letter and must be signed by one of your principal officers. You may request a hearing with a member of the office of the Regional Director of Appeals when you file your appeal. If a hearing is requested, you will be contacted to arrange a date for it. The hearing may be held at the Regional Office, or, if you request, at any mutually convenient District Office. If you are to be represented by someone who is not one of your principal officers, he or she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements as set forth in Section 601.502 of the Statement of Procedural Rules. See Treasury Department Circular No. 230.

[REDACTED]

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that:

A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within the time specified, this will become our final determination. In that event, appropriate State officials will be notified of this action in accordance with the provisions of section 6104(c) of the Code.

Sincerely yours,

[REDACTED]  
[REDACTED]  
District Director

Enclosures: 3

Enclosure I  
Reasons for proposed denial of exempt status

Information submitted indicates that your organization was incorporated on [REDACTED]. Your Articles of Incorporation state:

The goal of [REDACTED] is to give religious leaders especially, but not exclusively, a place to come to be alone with God and to study the Bible. It is our prayer that they can come and be renewed in order to serve others better. We do not charge as this could exclude some, but we trust in donations only.

Your application states that your primary function is to give those Christians who are in need of a place of rest a place to go. You plan to provide a place for pastors or leaders in the Christian community to rest and study and be alone with God without the interruptions of daily living. The facilities to be used include over [REDACTED] acres of land with woods, a stream and a small building which are the personal assets of your president and vice-president, [REDACTED]. You stated that these assets are on loan to your organization. Your application indicates that [REDACTED] are purchasing this property personally and that your organization is not involved in this purchase. You do not provide any activities, religious or otherwise, for guests. Your only activity appears to be your intention to send out newsletters to inform the public of your organization. You stated that there will be no charge to those who come. Your services are directed at leaders but no one will be turned away. You have applied for exemption from Federal income tax to be able to give those who wish to make a donation a receipt allowing them to claim their donation as a legal deduction.

Your officers consist of [REDACTED], who serve as President and Vice-President, respectively. You stated you will not conduct any fund-raising activities and you will not solicit contributions. You do not have any employees and you do not compensate anyone. Your application indicates that [REDACTED] are paying all of the expenses for your organization and you have no budget at this time.

Your organization does not have bylaws or any other similar internal rules of operation.

Section 501(c)(3) of the Code provides, in part, for the exemption from Federal income tax of organizations organized and operated exclusively for charitable, religious or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the Regulations states that in order to qualify under section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more exempt purposes. If an organization fails to meet either the organizational or operational test, it is not exempt.

Section 1.501(c)(3)-1(b)(2) of the Regulations states that the term 'articles of organization' or 'articles' includes the trust instrument, the corporate charter, the articles of association, or any other written instrument by which an organization is created.

Section 1.501(c)(3)-1(b)(4) of the Regulations states that an organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose. An organization's assets will be considered dedicated to an exempt purpose if upon dissolution, such assets would, by reason of a provision in the organization's articles or by operation of law, be distributed for one or more exempt purposes, or to the Federal government, or to a State or local government, for a public purpose, or would be distributed by a court to another organization to be used in such manner as in the judgment of the court will best accomplish the general purposes for which the dissolved organization was organized. However, an organization does not meet the organizational test if its articles or the law of the state in which it was created provide that its assets would upon dissolution, be distributed to its members or shareholders.

Section 1.501(c)(3)-1(c)(1) of the Regulations states that an organization will be regarded as 'operated exclusively' for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3) of the Code. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(c)(2) of the Regulations states that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals.

In Schoger Foundation v. Commissioner, 76 T.C. 380 (1981) an organization operating a religious retreat facility did not qualify for exemption under section 501(c)(3). It was determined that an organization that operates a religious retreat facility open to the public but without a set program or schedule of activities, religious or otherwise, is not exempt from tax under section 501(c)(3) or any other section of the Code.

Your articles of incorporation do not include a provision for the distribution of assets upon dissolution or termination. Therefore, you are not organized exclusively for one or more exempt purposes and you do not meet the organizational test under section 501(c)(3) since you do not provide for the proper distribution of your assets upon dissolution or termination.

Enclosure I can't

[REDACTED]

You are not operated exclusively for any of the purposes specified within the meaning of section 501(c)(3) since you do not provide any type of activity, religious or otherwise, as indicated in Schoger Foundation v. Commissioner. Due to the fact that you do not provide any activities at all, you are not engaged primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3) of the Code. Accordingly, you do not meet the operational test required under section 501(c)(3) of the Code because you are not operated exclusively for one or more exempt purposes as required by section 1.501(c)(3)-1(a)(1) of the Regulations.

Section 501(c)(3) of the Code requires that no part of an organization's net earnings inure to the benefit of any private shareholder or individual. Section 1.501(c)(3)-1(c)(2) of the Regulations also prohibits inurement by stating that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals. We are of the opinion that any contributions received by your organization would inure to the benefit of [REDACTED], your President and Vice-President, to the extent of any expenditures made for the maintenance and improvement of their personal property which your organization uses.

Accordingly, we have concluded that you do not qualify for exemption from Federal income tax under section 501(c)(3) of the Code and contributions to you are not deductible by donors under section 170 of the Code. We are also of the opinion that you do not qualify under any other section of the Code.